

UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

1:21-mc-00100-AKH

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 5th day of July, two thousand and eleven,

Sarah Atlas, Christopher Baumann, Ruben Berrios, Donald Bigi, Enis Boyer, Eric Brzostek, Gary Cali, Thomas Callaghan, Luis Carpio, Raymond Cascio, Regina Cervantes, Thomas J. Clarke, Anthony Conti, Mitchell Coto, Joseph Cutrone, John Dadabo, Kevin Delano, John DeMartino, Jr., Kevin Doherty, Richard Estreicher, Andrew Finn, Vincent Forras, Anthony Gallo, Robert Gayer, Frank Giaramita, Steven Guise, Brian Hanberry, Jeffrey Howell, Bill Keegan, Donald Kennedy, Suzanne Lester, Patricia Lewis, Joseph Libretti, Glenn Makuch, Julio Marrero, Marc Mastros, Kenneth McCormick, Robert McGrory, Timothy McInerney, Henry Miano, Timothy Morley, Brian Murphy, Paul Murphy, Joseph Napoli, James O Keefe, Girard Owens, Edward Parker, William Piatti, Thomas Reilly, Terrence Revella, David Rivas, John Rizzi, George Samuels, Brenda Spencer, Sean Tesieriro, Sean Veerapen, Kodengada Viswamithra, Charles Wilson, Katherine Zarr,

Plaintiffs - Appellants,

v.

Noah H. Kushlefsky,

Appellee,

Christopher Cirino, John Montalvo, Marion S. Mishkin, of counsel Noice of appearance to Sacks & Sacks, Phyllis Costarella, Joseph Falcone, Lenny Dinotte, Cliff Carty, Kathleen Carty, Joseph Scaramuzzino, Kelly M.

ORDER

Docket Number: 11-1446

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 Yajaira Strohl, Arlene Montalvo, Richard Mighdoll,
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 Maisano, Julie Maisano, Arthur S. Davis, Theresa A.
 Davis, Lawrence Ford, Blanca Goffredo, Frank
 Goffredo, Bernard Stinchcomb, Christine Johnson,
 Robert Johnson, Jr., David Nolan, Louise Nolan,
 Robert Panarella, Herbert Pate, Francis Lavery, Kathryn
 Lavery, Arlene McGillick, Jon J. McGillick,
 Dewardranth Samaroo, Donald Carson, Gloria Elaine
 Carson, Andrea Cavicchio, Nicola Cavicchio, Jason
 Porcaro, Robert Ayers, Diane Hoch Sankey, Patricia
 O'Brien, Dean Curti, Jessie K. Horton, Lawrence
 Horton, Kevin J. O'Brien, William J. Sankey, Jerry
 O'Connor, Victoria O'Connor, John Quinn, Donald G.
 Thompson, Renee Thompson, Daniel Leonard, Laura
 Leonard, Jo Andrusyczyn, Stanley Andrusyczyn, Hector
 Rivera, Joseph Bellissimo, Carl Fisher, Jon Marie
 Fisher, Patrick Donaghy, Susan Allison, Richard
 Allison, Juan Cubero, Rosa Cubero, Jeanne Kolarik,
 Mark Bernheimer, Arthur Alessandro, John Delaney,
 Patrick D'Alliegro, John Botte, Cynthia Shelto, Allen
 Andersen, Sue Ann Andersen, Cecelia Borcharding,
 Stephen Borcharding, Marcia Diaz, William Diaz,
 Charles La Barbera, Catherine Langerin, Philip J.
 Pfersching, Kevin Reynolds, Joseph Cardinale, Teresita
 Cayatano, Robert Intartaglia, Christopher Romanski,
 Raymond Fuscaldo, Donna Donnelly, Dorothy Foris,
 Delia Becca, Lance Becca, Gregory A. Forsyth, John
 Jackson, Tomiann Jackson, Donna Haskell, Frank
 Haskell, Christine Placide, Larrie Placide, Ann Marie
 Duignan, Patrick Duignan, Michael Macko, Jill
 Miskanic, John Miskanic, Andrea McDonough, David
 McDonough, Walter Jensen, Thomas Doherty, James
 Checco, Judy Checco, Jean Imparato, Joseph Imparato,
 Lane Metro, Nancy Metro, Kevin Farrell, Concetta
 Zuccaro, John Zuccaro, James Albach, Michael Bell,
 Shirley Bell, John Boyle, Christine Broome, Robert
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 Buss, Jeanette Buss, Anthony Devita, Laranie Devita,
 Diane Donovan, Kenneth Donovan, Danielle Eivers,
 Joseph Eivers, Gregory Forsyth, Robert Gallagher,
 Rosario Gallagher, Robert Garrett, Carol Gavitt, Joseph
 Gavitt, Francesca Gillam, Thomas Gillam, Patricia
 Hawkins, Scott Hawkins, Anna Maria Hubner, Vincent

Hubner, Barbara Kadnar, James A. Kadnar, Derek Kelly, Catherine Lang, James Lang, Caroline Lavin, Michael Lavin, Alfred Luchetti, Mary Ellen Luchetti, Frank Malone, Dennis McConville, Gail McConville, James McHugh, Margret McHugh, Kenneth Miccio, Cathy Mongiello, Kevin Mongiello, Laura Morello, Marc Morello, Mathew Mulham, Corinne Mulham, Carolyn Mundy, Thomas Mundy, Joseph Murphy, Nancy Murphy, Maureen Nogan, Richard Nogan, John Quevedo, Alfred Retundie, Carol Retundie, Alice Rivera, Vincent Rivera, Donald Striffler, Mary Jane Striffler, Robert Van Houten, Robin Van Houten, Andrea Weisenburger, Gregg Weisenburger, Michael Welsh, Theresa Welsh, George Foris, Jacqueline Cacchioli, Louie Cacchioli, Patricia Agugliaro, Anthony Agugliaro, Alfred Gaillard, Ernest Medaglia, Susan Medaglia, Lionel Payette, Michelle Payette, Ingrid Quagliariello, Vincent Quagliariello, Lois Rice, Frank Silechai, Frank Squicciarini, Michelle Squicciarini, Anthony Compono, Sheila Compono, William Favata, Michele Hardin, Robert Hardin, Jimmy Rosario, Toni Rosario, Leonard Schmitt, Virginia Schmitt, John McLees, Lenore Rauscher, Philip Rauscher, John C. Sondey, John Baiano, John Bonvicino, John Bou, Douglas Anderson, Daniel Simon, Theresa Simon, Richard Fritz, Adam J. Vilagos, Yvonne Vilagos, George Morales, Charles Piotrowski, Marguerite Piotrowski, Joseph Accetta, Sharon Accetta, Frank Gulotta, Geraldine Martin, John McArdle, Police Officer, Barbara McArdle, Barbara Melendez, Edna I. Muniz, Raul Muniz, Christine Pagliuca, Brian Madden, Maxine Madden, Joseph Pagliuca, Dennis Keane, Lisa Keane, Kenneth Peppei, Rhonda Peppei, Dino Polichetti, Detective, June Polichetti, Auying Rivera, Maureen Rodriguez, Linda Scharp, William Scharp, Heidi Scheiner, Joseph Scotti, Lisa Scotti, Steven Stefanakos, Ann Towpash, Robert Tucker, Eric Wuss, Staci Wuss, Mary DeSimone, Joseph DeSimone, Annette Misichia, Frank Misichia, Allison Poliseno, Nicholas Poliseno, Charles Rice, Jeffrey Rivera, Kenneth Rodriguez, Kevin Mongiello, Kevin Brannick, Wayne Brown, Robert Carannante, Victor Carpentier, Alan Ceserano, Michael Conlon, Phyliss Costarella, Gerald Damitz, Anthony Delbianco, Lenny Dinotte, Daniel Donovan, Roy Edwards, Nelson Garcia,

Anthony Girodano, Robert Goffredo, Rafael Gutierrez, Otto HAVell, III, Robert Henri, Austin C. Johnson, Omar Malave, John Menoni, Mickey Nardiello, Frank Ozello, Thomas Perry, Juan Rullan, Thomas Perry, Raymond Russo, George Snyder, Alexis Solomon, John Pankey, Rafael Garcia, individually and as representatives of a class of individuals similarly situated, John Lombardi, individually and as representatives of a class of individuals similarly situated, Hasan A. Muhammad, individually and as representatives of a class of individuals similarly situated, Roberto Ramos, Jr., individually and as representatives of a class of individuals similarly situated, Michael R. Basile, Thomas E. Carlstrom, Kathy O'Neill, Robert O'Neill, Telma Alvarado, Robert Asinelli, Susan Asinelli, Carol Barnes, James S. Barnes, Daniel Danzi, Gabriel Masaracchia, Sharon Danzi, John DiFalco, Dorothy Rohr, Nancy DiFalco, John Rohrbeck, Agustin Diaz, Daniel Doll, Lisa Doll, John Glynn, Mary Glynn, Sharon Sellick, Gary Grisolia, Joseph Aridzzzone, Joann Grisolia, Bruce Groth, Donna Groth, Charles Haver, Lori Haver, Jo Ann Lavery, Manuel Luna, Jessica Macaluso, Daniel Mahlmann, Tracey L. Mahlmann, Bryan McElwain, Felicia McElwain, Carolyn McGuire, Robert McGuire, Jane McKenna, John McKenna, Joann MCMahon, John MCMahon, Sharon Brenseke, Steven Brenseke, Christine Comerford, John Comerford, Edward Donnelly, Linda Donnelly, James Fusco, John Mills, Margaret Mills, Jennifer Morales, Nicholas Morales, Adilline Navarro, Felix Navarro, Martin Olsen, Kumarie Rampersad, Sunil Rampersad, Willie Richardson, Donald O. Thompson, Majorie Thompson, Michael Clarke, Vienna Clarke, John Dadabo, Adam Lutfi, Elliott Miller, Nicole Lutfi, Joseph Nacarlo, Loan Murray, Pamela Nacarlo, Errol Rampersad, Parbatee Rampersad, Boroido Rivera, Jennifer Roberts, Desmond Loughran, Jean Vasconi, Emil Borg, Maylee Borg, Patrick Holahan, Susan Holahan, Emily Puppa, Glenn Puppa, Ursula Hubert, Michael Hurbert, Catherine Keir, James Keir, Cindy Mastrota, Frank Mastrota, Frank Mastrota, George Faller, Kathleen Faller, Michael Crowell, Ada R. Aparicio, Robert Murray, Joseph Aparicio, Donald Bigi, Donna J. Bigi, Andrew F. Carson, Bonnie M. Carson, Lawrence

Coleman, Peggy Coleman, Christine Duval, Keith Duval, James Griffin, Jennifer Griffin, Celeste Haas, Scott Haas, Brian Hearn, Kathleen Hearn, Debra Huhn Hewson, Michael Hewson, Mary Ellen Lanigan, Michael Lynch, Tina Lynch, Michael Brigante, Steve Cappello, Paul Carpenteri, John Kear, Christopher O'Rourke, Salvatore Palmeri, Wendy Henry, Joseph Leahy, Sandra Leahy, Allison Edwards, William Edwards, Patrick Arcese, James Cooney, Samuel Provisero, Susan Marie Provisero, Denise Esposito, Robert Esposito, Doug R. Horning, James Kelly, Benito Berrios, Jr., Chaundolyne Mack, Debra Maggiani, Nabil Hussain, Michael Giganti, Josehine Damato, Michael Damato, Carmen Fernandez, Joseph Nolan, Police Officer, Lana Nolan, Mickey McFarland, Elaine Wint, Helen Mulcahey, Catherine Siano, Thomas Siano, Karen L. Simpson, William Simpson, Correction, James A. Howard, Elizabeth Stewart, Richard Maiorino, James Monahan, Police Officer, John Urso, William Schillinger, Kathy Slizewski, Kenneth Slizewski, Alfred MacDonald, Kelly Macdonald, Lori McPartland, Michael McPartland, Edgar Mendez, Tasha Mendez, Christopher O'Donnell, Stephanie O'Donnell, Ana Fox, Robert Fox, Donna Cirino, Martin Kelly, Shane Dresser, Patrick McVey, Christopher Misciagna, Ellen Collins, Debra Curcio, Peter Curcio, Patricia M. DiGiovanni, Kathleen Fullam, James Fullam, Jacqueline Miller, James Miller, James Mullen, Trustee, Kim Mullen, John Murphy, Dan Potter, Jean Potter, James Service, Rebecca Service, John Condon, Cynthia Vitera, Christopher Lavin, Dawn D'Agostino, Philip D'Agostino, Bozena Kajewska-Pielarz, Joesf Pielarz, Christine Panarella, Michael Panarella, Andrew Scallo, Diane Scallo, Maureen Colgan, Patrick J. Colgan, John R. O'Keefe, Sandra O'Keefe, Khemraj Singh, Antonio Martino, Nicole Martino, James Baumann, Richard Bittles, Cesar Bonilla, Joanne Bonilla, Daniel Gilroy, Maureen Gilroy, George Rodriguez, Marguerita Rodriguez, Thomas Callaghan, John Harkins, Police Officer, Kevin Kerrigan, Iris Lopez, Margaret O'Keefe, John Marksp, Lisa Marks, Anthony Marden, Theodore Sergio, Christina Marden, Kathleen Doerler, William Unger, Walter Bieber, Deirdre O'Donnell, Joseph O'Donnell, Allen Akers, Mary Akers, Betty Harrison, Yvonne Leon, Robert Garrett, Karen Labetti, Michael

Labetti, Carlos Perez, Suzanne Murphy, Michael Rooney, Penny Rooney, John Rohr, James Melendez, Edward Galanek, Luz Cardona, Elizabeth Connolly, James Connolly, Catherine Musto, Louis Musto, Gerald Quill, Linda Quill, Edward Scharfberg, New York City Police Officer, Marylee Scharfberg, Christine Voce, Gregory Voce, Cora Weihs, Joseph Weihs, Suzanne Worontzoff, Walter Worontzoff, Anna Zecca, George Zecca, Barbara Lopez, Manuel Lopez, Thomas Lennon, Aida Valdiulezo-Nieto, Edward Learning, Victoria Learning, Hamide Cagatay, Zebebulah Cagatay, Jose Calle, Rudolph Geiger, Carolyn Bryson, Robert Mule, Charity Oberdier, Jeffrey Oberdier, Deborah Scotto, Dominick Scotto, Louis Quadrino, Sonia Quadrino, Michael J. Surianello, Frank Danetra, John Warren, Sheryl Warren, Edwin Pagan, Daniel Kemmet, Doell Kemmet, Fernando Sanchez, Sanchez Maria, Julia Valentin, William Valentin, Sophie McGill, Mary McGrory, Anthony Heitz, Ruth Marie Heitz, Peter Dalton, William English, Robert McCracken, Chief, Walter Lane, Brian Divis, Christopher Destefano, Anna Patricia Cantos, Richard Saccomagno, Charles Dell'accio, Ilkhah Dell'accio, June Dibetta, John McGill, Robert McGrory, Carl Delgado, Carolyn Cicero, Joseph Cicero, Donna O'Byrne, Michael O'Byrne, Patricia Ryan, Terrence Ryan, Ronald Brandt, Paul Caminiti, Patrick Coleman, Robert Cooke, Thomas Dowdle, Claudette Cruickshank-Davis, William Collins, Michael Kelley, Dee A. Fraley, Gerald E. Fraley, Joseph Greco, Judy Greco, James Francis, Karina A. Francis, Hector Diaz, Linda Diaz, Scott Dabreu, Michael Divirgilio, Frank Ingenito, Michael Pluchino, Robert Schuman, Jerome Willis, Hector Fernandez, Angie Febres, Christopher Hynes, Leslie Hynes, William Henderson, Maria Henderson, Maryanne Hinchy, George O'Connor, Allison Kapezack, Steven Kapezak, Mary Imbornoni, Thomas Imbornoni, Daisy Ibanez, Diomedes Ibanez, Doreen Kozak, James Knight, Roxanne Knight, Christopher Kuchler, Soojin Kuchler, Carolyn Leibowitz, Leslie Leibowitz, Anthony O'Brien, Patricia O'Brien, Terrance Frontis, Vincent Ligotti, Jay Levine, Maria O'Neill, Thomas O'Neill, Judy Chin, Tommy Chin, Deborah Lonnberg, Ronald Lonnberg, Steve Lovergine, Jerome Kazlauskas, David Andre Liferidge, Patricia Havelka, Rudolf Havelka, Antonio Silva,

Esperanza Silva, Diana Trinidad, Edictor Trinidad, Albert Sheppard, Patricia Sheppard, Rosemary Johnson, Stephen Johnson, Geraldine R. Sabatasso, Robert Ryan, Holly Mulhern, Richard Mulhern, Denise Sullivan, Jimmie Sullivan, Joseph Haddock, Zenobia Walji, Mark Lenigan, Jeaan Marie Whelan, Patrick Whelan, Alinda Durkin, John Durkin, Anthony D'Angelo, Laura D'Angelo, Barry Felder, Thomas Glaudio, John Faust, Rosemarie Faust, Charles Wassil, Patricia Wassil, William Luciani, Daniel Taylor, Lynn Taylor, Teresa Hartley, Robert Zane, Albert Pearce, Robert Suarez, Antonio E. Alves, plaintiff in matters 05-cv-7266 & 05-cv-2716, Maria E. Alves, plaintiff in matters 05-cv-7266 & 05-cv-2716, Raymond Hauber, in his representative capacity as executor of the Estate of Raymond Hauber, now deceased, Christine Stinchcomb, Lisa Reynolds, John Tiska, Lorraine Dadabo, Todd Lum, David Zephrene, Josephine Zephrene, Debra Hutchinson, Don Hutchinson, Michael Hughes, Christine Hutchinson, Robert Hutchinson, Martin Zollner, Imie Zollner, William Mulcahey, Ann Hock, Joseph Hock, James Howard, Elizabeth Stewart, Herbert Stewart, Anna Fittipaldi, Tyrone Lott, John Lonnborg, Susan Woods, Dominick Rutigliano, Joelle Rutigliano, Ann Marie Schilling, Chalres Schilling, Linda Solis, Lucio Solis, Louise McNiece, Patrick McNiece, Frank Farrugia, Karen Farrugia, Frank Farrugia, Kathleen Tracy, Peter Tracy, Richard Passeretti, Richard Maoiorino, Gary Tolesp, Karline Toles, Daniel Magrino, Virginia McGill, Keith McGill, Christopher Murphy, Gary Mangiapia, Paul Mazzilli, James Monahan, Police Officer, Stephanie Urso, Mary Anne Schillinger, William Schillinger, Lori McParland, Michael McParland, Darren Brindisi, Alviri Foster, Pamela Gauci, Hugh Bradshaw, Christopher Greeff, John Capenito, Kevin Capenito, Alisa Columbia, Chris Columbia, Pete Franzone, Anita Cozza, John Cozza, Luz Botero, Carolyn Cuneo, Cory Cuneo, Daniel Conroy, Suzanne Conroy, Tyrell Anderson, Dominic Bonomonte, Maria Asencio, Luigi Cuffari, Sharon Cuffari, Annabel Baratta, Michael Baratta, Roy Barefield, Sybel Barefield, Christine Cunningham, Michael Cunningham, Patricia Bullen, Thomas Bullen, Christine Corbett, Patrick F. Corbett, Annette Leary, Santy Bermudez, Bridget Cacavio, Thomas Cacavio,

Joseph Cowell, Ralph Fragapane, Vera Fragapane, Holly Andersen, Jason Andersen, Gail Corrao, Louis Corrao, Michael Guglielmo, Philomeni Guglielmo, Krista Desimone, Brian Glacken, Maria Cinquemani, Victor Cinquemani, Anthony Giorando, Marisa Giorando, Gerard Gavin, Mary Gavin, Denise Donato, Greg Donato, Maria Criollo, Jose Criollo, Louis Buglione, Winifred Buglione, Louis Gyuris, Nicholas Boscaino, Christine Carver, Thomas Carver, Richard Blasi, Thomas Cooke, Cynthia Cooke, John Antoniadis, Anthony Cummo, Christine Cummo, De'Andre Berry, Renee Berry, Ann Cangemie, Emanuel Cangemie, Darren C. Harkins, Robert Castorena, Lorenzo Arellano, Tricia Arellano, Carolyn Bavaro, Anthony Franzolin, Daniel Fernandez, Susan Fernandez, David Pope, Michael Knox, Peter Franzi, James W. Brereton, Sandra Brereton, Leslie Fleming, Robert Fleming, Ann Betro, Louis Betro, Aaron Edelman, R. Delia Mannix, Richard Mannix, Beverly Hovell, Richard Hovell, Charles Maxwell, Debbi Maxwell, Cristine Papasodero, Vincent Papasodero, Brian McGreever, Ileana McGreever, Michael Stacey, Stephanie Stacey, Kevin Martz, Anthony Valletta, Alma I. McCahey, Richard McCahey, Dianne Masino, Louis Masino, Michael Kendrick, Dawn Kirchner, Ronald Kirchner, Dale Pizzo, Frank Pizzo, Jenniffer Schojan, Peter Schojan, Donna-Marie Gullo, Karin Fox-Taitt, Patricia DeJesus, Andre Escalera, Donna Stacey, Louis Stacey, Elisabeth Mancini, Ron Mancini, Enrigue Cruz, Gladys Cruz, Jose Medina, John Lynott, Patricia Lynott, Mike Melillo, Susan Melillo, Erasmo Maddalena, Carolyn Riegert, Russell Riegert, Kerry Smith, Frank Salamone, Jodie Salamone, Ilyes H. Ruiz, David Ruiz, Eileen Moran, James Moran, Catherine Petrella, Michelle Oetting, William Oetting, Silvia Castillo, Richard Sere, Dennis Healy, Brian Hughes, Kerry Hughes, Anthony Serevino, Lizette Carvajal, Richard Harris, Patricia Mullaney, Regis Mullaney, Flora Priolo, Frank Priolo, Gary Walters, Star Walters, Irene O'Donnell, Charles Langone, Janet Langone, Cheri Rontondi, Mark Rontondi, Elizabeth Ryan, William Ryan, Peter Mladinich, Loretta Mendez, Roy Mendez, Delia Lopez-Stull, Edward Lopez-Stull, Albert Munro, Sandy Munro, Sandra Nemeh, Steven Nemeh, Dara Moore, Francis Moore, Stanislav Salomov, Vera Shalomov,

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 Boswell, Robert Boswell, Robert Melendez, Sarita
 Melendez, Luigi Bruschi, Maria Bruschi, Arlene Feola,
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 Julie Bruno, Thomas Bruno, Alexander Darmiento,
 Jessica Darmiento, Donnamarie Nolan, James Nolan,
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 Doherty, Kevin Doherty, Julie Camarda, Thomas
 Camarda, Elizabeth Dwyer, Patrick Dwyer, Michael
 McDaniel, Sharon McDaniel, Thomas Cruz, Elaine
 Buirkle, Joseph Buirkle, Kathleen Gannon, Richard
 Gannon, Lorraine Burke, Marie Neuman, Raymond
 Neuman, Mariana Ortega, Segundo Ortega, Carmen
 Ruiz, Edward Irving, Eileen T. Irving, Nancy Regan,
 Thomas Regan, Antonio Andreotti, Ralph Andreotti,
 Chris LaFrancesca, Marie LaFrancesca, Bunilda Litwin,
 Stuart Litwin, Diane Parrett, Kevin Parrett, George
 Henges, Nidal Henges, Al Laner, Linda Laner, James
 Parmiter, Laurie Parmiter, Joseph Palacino, Rose
 Palacino, Amadeo Pulley, Gina Pulley, Charles Murphy,
 Joanne Murphy, Christian Sollecito, Elizabeth Sollecito,
 Dawn Johnstone, John Johnstone, Patricia Loening,
 William Loening, Mercedes Sumba, Samuel Sumba,
 Eugene Hipsman, Kathleen Hipsman, Georgina Cabrera,
 Denise Perez, Felix Perez, Evelyn Riera, Freddie
 Noboa, Silvia Noboa, William Serpe, Solvig McAuley,
 Stacey O'Rourke, Kevin O'Rourke, Alice Norkevich,
 Frank Norkevich, Joann Mussillo, Joseph Mussillo,
 Blasina Ortega, Raul Ortega, Catherine Massab,
 Michael Greene, Jennifer Vowinkel, Lawrence
 Vowinkel, Brian Glacken, Kimberly Carlo, Peter Carlo,
 Kevin Calzadilla-Marino, Marisol Calzadilla-Marino,
 Salvatore Dantone, Frank Stark, Pamela Stark, Conte
 Cutting, Sonya Cutting, Evelyn Lillis, Steven Lillis,
 Charolotte Lipson, Ronnie Lipson, Christine Pierre,
 Frank Faivre, Maryellen Faivre, Angel Hualpa, John
 Fiorella, Ana Weeks, Raul Weeks, Andrew Dunaway,
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 Genovese, Daniel Joyce, Clifford Kartell, Susan Kartell,
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 McCullagh, Patricia Meade, Rory Meade, Chandidas
 Potopsingh, Lorraine Potopsingh, Andy Saladeen,

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Jamal Williams, Camile Baker, William Baker, Jenifer Streng, Joseph Streng, Christopher Bacchi, Jose Bacchi, Fred LaFemina, Robin LaFemina, Lisa D. Maitland, Noel Maitland, Cynthia Dellaporta, Michael D. Dellaporta, Judith Longa, Thomas Longa, Julio C. Rosario, April Rojas, Carlos Rojas, Anita Thomson, Dennis Thomson, Arnold Hardman, Sharon T. Hardman, Christopher Ryan, Erin P. Ryan, John Rodelli, Kathy Rodelli, Dorothy Cunningham, Tom Cunningham, Augustine Sciabarassi, Patricia Sciabarassi, James Tierney, Mary Tierney, Thad Todd, Detective, Anthony P. Roy, Donna Roy, Nicholas Morrone, Robert Kenavan, Veronica Kenavan, Ariel James, Ava James, Belinda Gonzalez-Ruane, Tye Butler, Peter Cooper, Maria Cooper, Joseph M. Urso, Bruce Gerrie, Debra A. Gerrie, Kevin Barry, Lorraine Barry, Keith Richards, Teresa Arca, William Ziegelmeir, Patrick Desarlo, Noreen Desarlo, Antoinette Cacovic, Alexander Cacovic, William Geer, Randy S. Brenner, Andrew Porazzo, Pawel Krasko, Denise DeAngelis, Karen Doty, Ricard Doty, James Arca, Marion Slawinski, Marie Slawinski, Joanne William, Dreu Williams, Eugene Dalton, Nan Dalton, Richard Eulie, Yvonne Eulie, Michael Briskie, Silva Briskie, Steven Kepley, Michael Gentile, Nurul Amin, Mark DeMauro, Gina DeMauro, Daphna Blacksea, Victor DiPierro, Lucy DiPierro, Robert Coletti, Phylis Coletti, Marco A. Mendoza, Carolina Mendoza, Peter Tartamella, Frances Tartamella, Michael Sullivan, Jennifer Sullivan, Christopher Wanker, Meghan Wanker, Bill Cavanaugh, Margaret Cavanaugh, Raymond Denninger, Vicki Denninger, Thomas Dawber, Anna-Marie Dawber, Jaime Cruz, Katherine Cruz, Ralph Madonna, Michael Restagno, Maria Restagno, Colin Byrne, Christopher Dowd, Barbara Dowd, Paul Jaeger, Carolyn Jaeger, Kenneth Quest, Susan Quest, Anna Abad, Aly Abdelrehim, Hala Abdelrehim, Leonard Abruzzese, Caryn Abruzzese, Albert Acierno, Holly Acierno, Peter Acquaro, Kathleen M. Acquaro, Guiseppe Acquista, Robert Adams, Lahissi Adetayo, George Affatato, Lois E. Affatato, Emmanuel Agostini, Calogero Agro, Rosa Agro, Carmelo Agro, Steven Agugliardo, Nicole Agugliardo, Robert Aguirre, Patricia Aguirre, Inderpaul Ahluwalia, Manjeet Ahluwalia, Nasar Ahmed, Okpara Akil, Ronnita Akil, Vivencia Alaimo, Serafina Alaimo,

Anthony Albert, Sylvester Alexander, Debora
 Alexander, Victor Alexander, Geraldine Alexander, Jane
 Alfano, Darren Alicea, Clifford Allen, Josephine Allen,
 Kevin Allen, June Allison, Raul Allivar, Anthony
 Alloggio, Catherine Alloggio, Orlando Almodovar,
 Julio Alonzo, Neil Alper, Jorge E. Alulema, Robert
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 Anderson, Nicole Anderson, Joseph Anderson, Andrea
 Anderson, Mortimer Anderson, Camile Anderson,
 Courtney Anderson, Mark Andrus, Pino Anselmo, Rita
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 Peter Antienne, Evanie Antine, Richard Antonacci,
 Robert Anzalone, Ann Marie Anzalone, Joseph
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 Arciuolo, Celia Arciuolo, Arenas Arenas, Jhonson
 Arichabala, Dagoberto Aristizabal, Alexandra
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 Arlotta, Thomas A. Arlotta, Romulo Armas, Claude
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 Frank Auditore, John Auer, Jules Auguste, Clyde
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 Anna Aviles, Lawrence Ayers, Patricia Ayers, Victor
 Azubike, Tekrishia Azubike, Thomas Bacchi, Irene
 Bacchi, Fabiola Baez, Raul Baez, James Bahrey,
 Lauranne Bahrey, Santo Baisi, Alfred Baker, Candiace
 Baker, Chris Balabous, Rosanne Baldo, Krishendath
 Baliraj, Olga Baliraj, Joseph Barbato, Joseph Barbera,
 Virginia Barbosa, Stalin F. Barccoulong, Michael
 Barker, Raymond Barksdale, Elizabeth Barksdale,
 Andrew Barone, Ann Marie Barone, Sergio Barragan,
 James Bartlet, Yudelka Bartlet, Guillermo Barzola,
 Wilbert Bascom, Setna Bascom, Anthony Basic,
 Thomas Basmagy, Nancy Basmagy, Harry Bass, Maria
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 Richard Battle, Frank Bauman, Alise L. Bauman,
 Christopher A. Bauman, Hanfort Bautista, Patrick J.
 Beatty, James Beck, Christine Beck, Paul Beck, Tinel

Bedford, Leonard Beecher, Fanny Bejarano, Theadore Belgrave, Amy Beller, Timothy Bellew, Kathleen A. Bellew, Dimitrios Bellos, Martin Belmonte, Eileen Belmonte, Xavier Beltran, Florinda Benavidez, Lori Bencivenga, Thomas L. Bencivenga, Rose Marie Bencivenga, John Benedetto, Theresa Benedetto, Vinny Benenati, Cindy Benenati, Andrew Benfante, Shirley Benfante, Reynaldo Benitez, Richard Benn, Ann Benn, Carlos Bennett, Donna Bennett, Peter Bergin, Susan Bergin, Erick Bermudez, Frank Beshears, Diane Bethea, Idris Bey, Michael Bianchino, James A. Bianco, Terry Bianco, Vito Bianco, James Bieselin, Lorraine K. Bieselin, Joseph F. Biella, Roseann Bilella, Robert Bilella, Maureen Bilella, Vincent Bilella, Martin Bilinski, Catherine Bilinski, Kampta Bishun, Hassena Bishun, Peter Bishun, Elizabeth Bishun, John Black, Patricia Black, Joseph Black, Veronica E. Black, Leon L. Blackwell, Jorge Blanco, Dora Blanco, Leroy Blount, Eleanore Blount, Thomas Blumbergs, Kevin Bobe, Nicholas P. Bolobanic, Joy H. Bolobanic, Anthony Bombace, Jean Bombace, Jay Bomser, Daniel Bonanno, Frank E. Bondeson, Kathleen Bondeson, Edward Smith, Dennis M. O'Connor, Nicholas Lusuriello, Thomas M. Flanders, 22 Non-Resp, Darlene Montalvo, Paula Raehse, Daniel DeGiovine, Joette DeGiovine, All Plaintiffs, Harold Valencia, Natalie Valencia,

Plaintiffs,

City of New York, AMEC Construction Management, Inc., AMEC Earth & Environmental, Inc., Bovis Lend Lease LMB, Inc., Evergreen Recycling of Corona (E.R.O.C.), Turner/Plaza, A Joint Venture, A Russo Wrecking, Inc., Plaza Construction Corp., Atlantic-Heydt Corporation, Tully Construction Co., Inc., Turner Construction Company, Berkel & Company Contractors, Inc., Big Apple Wrecking & Construction Corp., Board of Education of the City of New York, Breeze Carting, Inc., Breeze National, Inc., Brer-Four Transportation, Buro Happold Consulting Engineers, PC, C.B. Contracting Corp., Canron Construction Corp., Component Assembly Systems, Inc., Cord Contracting Co., Inc., Dakota Demo-Tech, Diamond Point Excavating Corporation, Diversified Carting, Inc., DMT Enterprise, Inc., E. J. Davies, Inc.,

Eagle One Roofing Contractors, Inc., En-Tech Corporation, Ewell W. Finley, P.C., Executive Medical Services, P.C., Fleet Trucking, Inc., Francis A. Lee Company, FTI Trucking Corp., Gilsanz Murray Steficek, LLP, Goldstein Associates Consulting Engineers PC, Hallen Welding Service, Inc., HP Environmental, Inc., Hudson Meridian Construction Group LLC, J.P Equipment & Rental Materials, L.L.C., La Strada General Contracting Corp., Laquila Construction, Inc., Leslie E. Robertson Associates , R.L.L.P., Liberty Mutual Insurance Company, Lockwood Kessler & Bartlett, Inc., MRA Engineering P.C, Mueser Rutledge Consulting Engineers, Nacirema Industries Inc., Manafort Brothers Incorporated, New York City School Construction Authority, New York Crane & Equipment Corporation, Nicholson Construction Company, Peter Scalmandre and Sons, Inc, Pinnacle Environmental Corporation, Pro Safety Services Inc., PT&L Contracting Corporation, Robert L. Gerosa, Inc., Robert Silman Associates, P.C., Moretrench American Corp., Rodar Enterprises, Inc., Royal GM Inc., SAB Trucking, Inc., Safeway Environmental Corporation, Semcor Equipment & Manufacturing Corporation, Silverite Contracting Corporation, Simpson Gumpertz & Heger, Inc., Skanska Koch, Inc., Skidmore Owings and Merrill, L.L.P., The City University of New York, Thornton Tomasetti, Inc., Total Safety Consulting, LLC, Tucci Equipment Rental Corporation, Vollmer Associates LLP, Weeks Marine, Inc., Weidlinger Associates P.C., Wolkow Braker Roofing Corporation, WSP Cantor Seinuk, Yannuzzi & Sons, Inc., Yonkers Contracting Company, Inc., Lucius Pitkin, Inc., LZA Technology, a division of Thornton Tomasetti, Mazzocchi Wrecking, Inc., New York City Department of Education,

Defendants.

The parties in the above-referenced case have filed a stipulation withdrawing this appeal pursuant to Local Rule 42.1. Each party has submitted a separate electronically signed counterpart reflecting the negotiated terms of the stipulation.

The stipulations are hereby "So Ordered".

For The Court:

Catherine O'Hagan Wolfe,
Clerk of Court

The block contains a handwritten signature in black ink that reads "Catherine O'Hagan Wolfe". The signature is written over a circular official seal. The seal is red and blue, with the words "UNITED STATES" at the top, "SECOND CIRCUIT" in the center, and "COURT OF APPEALS" at the bottom.

A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

The block contains a handwritten signature in black ink that reads "Catherine O'Hagan Wolfe". The signature is written over a circular official seal. The seal is red and blue, with the words "UNITED STATES" at the top, "SECOND CIRCUIT" in the center, and "COURT OF APPEALS" at the bottom.